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WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

IN RE: ACTOS® (PIOGLITAZONE)
PRODUCTS LIABILITY LITIGATION

MDL No. 6:11-md-2299

JUDGE DOHERTY

MAGISTRATE JUDGE HANNA

This Document Applies To:
*Cynthia J. Hicks, Individually and on
Behalf of the Estate of Charles Junior Hicks,
v. Takeda Pharmaceuticals
America, Inc., et al.*
Civil Action No. 6:13-cv-00655

RULING

Pending before the Court is a “Motion for Substitution of Party and for Dismissal of Claims of Cynthia J. Hicks Without Prejudice” [Doc. 133; MDL Doc. 6547] (“the Motion”). In the Motion, Tyrus Hicks requests that he be substituted in place of Cynthia J. Hicks as representative of the Estate of Charles Junior Hicks (“the Estate”) in this Court’s record, and that the individual claims of Cynthia J. Hicks (the current estate representative reflected in this Court’s record) be dismissed without prejudice. For the reasons given below, this Court will GRANT IN PART AND DENY IN PART Mr. Hicks’ motion – his request to substitute himself for Cynthia J. Hicks as representative of the Estate within this Court’s ECF system will be GRANTED, and his request to dismiss Cynthia J. Hicks’ individual claims will be DENIED AS MOOT.

The suit at bar was initiated by a bundled Complaint [Doc. 1], filed March 30, 2013, which states that decedent Charles Junior Hicks was a citizen of New Jersey, and that plaintiff Cynthia J. Hicks makes claims both individually and on behalf of the Estate. [Doc. 1, p. 9] The Complaint indicates that Ms. Hicks “incorporates specifically Count X and Count XI of this complaint [sic],” *Id.*, which are defined as “Wrongful Death” and “Survival of Claims,” respectively, [Doc. 1, p.

35]. Therefore, Ms. Hicks explicitly asserted certain claims on her own behalf, and certain claims in her capacity as representative of the Estate.

In the Motion, Tyrus Hicks, through plaintiff's counsel, provides notice that he has been substituted as Administrator of the Estate in Docket No. 237558, pending in the State of New Jersey, Middlesex County Surrogate's Court, styled *In the Matter of the Estate of Charles J. Hicks, Jr. Deceased*. [Doc. 133, pp. 1-2; MDL Doc. 6547, pp. 1-2]. As evidence of the substitution, Mr. Hicks attaches a document titled "Substitutionary Administration with the Will Annexed Short Certificate," signed by Kevin J. Hoagland, Surrogate of Middlesex County, State of New Jersey. Therein, Mr. Hoagland certifies that Tyrus C. Hicks is duly authorized to administer the estate of Charles J. Hicks, Jr. [Doc. 133-1; MDL Doc. 6547-1] On the face of the documentation provided, therefore, Tyrus Hicks has been substituted as the appropriate representative of the Estate, by the appropriate state court, and his request to be substituted for Cynthia Hicks in that capacity in this Court's ECF system is GRANTED.

The Court notes Cynthia J. Hicks has filed a "Stipulation of Dismissal with Prejudice of Claims of Cynthia J. Hicks, Individually" [Rec. Doc. 137; MDL Rec. Doc. 6727], in which Ms. Hicks dismisses *with prejudice* those claims she has brought in her individual capacity, while not affecting those claims brought in her capacity as former estate representative. Therefore, Tyrus Hicks' request that the individual claims of Cynthia Hicks be dismissed without prejudice will be DENIED AS MOOT in light of Rec. Doc. 137 in Civil Case No. 6:13-cv-00655.

IT IS HEREBY ORDERED Tyrus Hicks' "Motion for Substitution of Party and for Dismissal of Claims of Cynthia J. Hicks Without Prejudice" [Doc. 133; MDL Doc. 6547] is GRANTED IN PART AND DENIED IN PART. The request that Tyrus C. Hicks be substituted for Cynthia J. Hicks as Administrator of the Estate of Charles Junior Hicks in this Court's ECF

system is GRANTED. Tyrus Hicks' request that Cynthia J. Hicks' individual claims be dismissed without prejudice is DENIED AS MOOT in light of Ms. Hicks' stipulation dismissing her individual claims with prejudice [Rec. Doc. 137; MDL Rec. Doc. 6727].

THUS DONE AND SIGNED in Lafayette, Louisiana, this 11th day of January, 2017.



REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE